

TAXATION AND REVENUE:

Application of Senate Bill 94 to delinquent city tax collections depends on classification of cities.

5-12
May 11, 1934.

Hon. Fred D. Wilkins
City Attorney
Louisiana, Missouri

*See 1933
Opinion no 63
to State Tax Commissioner*



Dear Mr. Wilkins:

Your request for an opinion of this office received some time ago has been referred to me on reassignment. Your request reads as follows:

*The writer is City Attorney of the City of Louisiana, Missouri and has been such attorney for the last six or seven years. He is trying to determine the effect of the new tax and revenue laws as the same may apply to this city. This is the law passed by the General Assembly of 1933 and reported beginning at page 425 of the laws of Missouri, Session Acts 1933.

I desire an opinion from your office as to whether or not this law is applicable to the City of Louisiana, Missouri, a town of less than 5000 inhabitants. In connection with my request, I desire to call your attention to the title of this act on page 425, which makes no reference whatever to the duties of cities either of 5000 inhabitants or more, but the title of this act provides that certain things shall be done by the County Collector and no reference in the title as far as I have been able to find is made to the duty of the collector, or other revenue officers of any city.

I must call your attention to Section 9945 at page 426 of the Session Acts which specifically refers to County Collectors, County Courts and to Cities containing a population of 5000 or more inhabitants.

It would seem to me that cities such as Louisiana are exempt from this act, but I want a ruling from your office.* * * **

Senate Bill 94 found at page 425 et seq. Laws of Missouri 1933, prescribes a new and different method for the collection of delinquent taxes. It is true that the title of the Act found at page 425 does not appear to reflect an intention to effect the collection of delinquent city taxes, however, we refer you to Section 9963c found at page 448. This Section reads as follows:

"In all counties that have adopted or may hereafter adopt township organization, wherever the word 'collector' is used in this act, as to such counties such designation shall be construed to mean 'treasurer and ex-officio collector,' or in Section 9962 may be township collector. Where applicable it shall also refer to the collector, or other proper officer, collecting taxes in any city or town. Where applicable the word 'county' as used in this act shall be construed 'City' and the words 'county clerk' shall be construed 'city clerk, or other proper officer.' "

I think that this clearly indicates a legislative intention to adopt the procedure prescribed for the collection of state and county taxes to the collection of delinquent city taxes.

As we do not pass upon the constitutionality of the Act but assume its constitutionality. For the purpose of our opinion we shall not go into the question as to the apparent failure of the title to reflect the subject matter of the enactment. It is apparent however from a comprehensive investigation of the other enactments referring to the collection of delinquent city taxes that there is a close connection between the method of collecting city taxes and the method of collecting state and county taxes, and this connection is to be found by referring to Chapter 38 of the R. S. Mo. 1929. It is our belief that the various sections of this Chapter pertaining to the collection of delinquent taxes are in pari materia with Senate Bill 94 and that these sections must be read and construed together. By doing so, it is our opinion that full effect is given to Senate Bill 94 without relying upon the provisions of Section 9963c. In this way any constitutional question respecting the sufficiency of the title of Senate Bill 94 is avoided.

Hon. Fred D. Wilkins.

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May 11, 1934.

We have heretofore prepared an opinion to the State Tax Commission as to the bearing of Senate Bill 94 upon the collection of city taxes. In this opinion we have dealt with cities of the first, second, third and fourth classes and with towns and villages. We believe that you will find this opinion solves your problem and are herewith forwarding a copy of that portion of the opinion dealing with this subject.

If your city operates under a special charter it would of course be necessary to examine the charter provisions regarding this particular matter before we could determine what effect if any is to be given this enactment in the collection of delinquent city taxes.

Respectfully submitted,



HARRY G. WALTNER, JR.
Assistant Attorney General.

APPROVED:

ROY McKITTRICK
Attorney General.

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